

## THE SINERGY OF CONVENTIONAL AND ONLINE TRANSPORTATION

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### Abstract

Technological and information developments have brought changes to the economy. The community begins to innovate in business by utilizing internet media. Information and communication technology has experienced rapid development over time. Technology is one of the factors that can change the social dynamics of society. With the emergence of a variety of new technologies, many companies and businesses are being innovated to create attractive business models with services that are no less amazing. One of the current technological developments is in online motorcycle taxi services. With the presence of online transportation, there must be a good synergy with conventional transportation. Good synergy is expected to create healthy competition between the two modes of transportation.

**Keywords:** Synergy, Conventional Transportation, Online Transportation

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### INTRODUCTION

Interesting to study healthy competition between conventional transportation and online-based transportation in Indonesia. We must admit that this online-based transportation business is a new breakthrough in the field of transportation. Rapid technological development cannot be avoided by the community. Therefore, this online transportation business must be welcomed and continued to be developed. The presence of online transportation brings a very positive air for the community in terms of service, in terms of price, in terms of time and creating jobs for the wider community. However, on the other hand, the existence of conventional transportation actors is increasingly eroded. The controversy between the two transports was triggered because since the presence of online transportation has caused business competition between online and conventional transportation to be un-healthy

Business transactions with electronic media are known as Electronic Commerce (E-Commerce). The definition of *E-Commerce* is as follows:

1. E-commerce is a new method for performing commercial activities. Daily-increase access to internet from one side and low level of costs for commercial activities through internet on the other could make it the most acceptable method for commercial transactions. With a glance to short-term history of e-commerce, we may notice that this phenomenon has a wide growth due to the simultaneous and great welcome of companies and customers.<sup>1</sup>
2. Electronic commerce or e-commerce for a wide range of online business activities for products and services. It also studies "any form of business transactions in which the parties interact electronically rather than

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<sup>1</sup> Navid Nikakhtar and Yang Jianzheng, 2012, 'Role of E-commerce in Supply chain Management to minimize costs', African Journal of Business Management, Volume 6, p. 5673

by physical exchanges or direct physical contact."<sup>2</sup>

Technological developments in the field of transportation if this is not addressed wisely by the government will trigger riots between online transportation and conventional transportation. In fact, the community has already been comfortable using online-based transportation modes. Stopping the operation of online transportation will certainly harm the community. However, letting them keep operating will certainly harm conventional transportation that has long been operating. The government is indeed forced to realize good synergy between the two modes of transportation, one of which is by making policies.

Based on the title and issues raised in the writing of this article, this research is an empirical or *socio-legal research*<sup>3</sup> and is qualitative descriptive<sup>4</sup>. Data sources used are primary data sources and secondary data sources. Data collection methods used by the author of the interview method (*interview*), observation and literature study. Methods of interviews and observations were conducted at the Jakarta Business Competition Supervisory Commission. Based on the background data, the authors are interested in raising the issue of synergy barriers between

conventional transportation and online transportation related to fair business competition.

## DISCUSSION

The development of the digital industry continues to accelerate, including in the realm of online-based transportation. The presence of transportation<sup>5</sup> application based online in Indonesia, especially in big cities, provides many benefits for users of transportation services. based transportation Online this seems to be the middle of the condition of urban mobility that has high intensity among road congestion. We do not deny that transportation online is<sup>6</sup>an option because of its timely and affordable costs.

According to Alvin Toffler, humans have now entered an era called *the third wave* (third wave). This era is also commonly called the era of industrialization or the information age.<sup>7</sup> Doing business with information technology makes open market opportunities wider. Doing business through the internet will make it easier to promote products, find consumers, customers. There

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<sup>5</sup> Transportation or transportation is a very important area of activity in the lives of Indonesian people. Recognizing the importance of the role of transportation, traffic and road transportation must be arranged in a national transportation system in an integrated manner and able to realize the availability of transportation services that are in accordance with the traffic needs and transportation services that are orderly, comfortable, fast, smooth and low-cost. Abdulkadir Muhammad, 1998, *Hukum Pengangkutan Niaga*, Bandung: Citra Aditya Bakti, p. 7

<sup>6</sup> Transportation can be interpreted as the transfer of goods or people from one place to another with the help of using a vehicle. Online is a network that is connected to the internet. Andika Wijaya, *Aspek Hukum Bisnis Transportasi Online*, 2016, Jakarta: Sinar Grafika, p.9

<sup>7</sup> Amar Ahmad, June 2012, *'Perkembangan Teknologi Komunikasi dan Informasi : Akar Revolusi dan Berbagai Standarnya'*, Tablighic Da'wah Jurnal, Volume 13 Number 1, p. 139

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<sup>2</sup> Nisha Chanana and Sangeeta Goele, *'Future of E-Commerce in India'*, 2012, International Journal of Computing & Business Research, Proceedings of I-Society

<sup>3</sup> Research that is socio-legal research puts the law as a social phenomenon, in this case the law is viewed only from the outside, so that socio-legal research legal research is always related to the problem social

<sup>4</sup> Descriptive research is intended to provide as accurate data as possible about humans, circumstances or other symptoms.

are factors that influence business development, namely: increasing business complexity that is influenced by the influence of the international economy, global business competition, IT development and growth, time utilization, social considerations and information technology capacity that are influenced by: service capacity information needs, interaction capacity in computer network, data access speed capacity.<sup>8</sup> Electronic transactions according to Article 1 of Law Number 11 Year 2008 concerning Information and Electronic Transactions are legal actions carried out using computers, computer networks and or other electronic media.

There are several key factors that support the growth of the transportation service industry *ride sharing*. One of the key factors that support is the existence of early adopters. *Early adopter* is a group in society that is the opinion leader in the use of a technology.<sup>9</sup> The growth of the ride sharing industry on online transportation cannot be avoided. The difference between online and conventional transportation services is online transportation using an application system that connects the customer with the driver, while conventional transportation does not use the application, and is directly carried out by the customer to the driver.

The presence of online-based transportation causes conflict<sup>10</sup> in various regions with conventional transportation. Issues that often arise in the controversy over the emergence of online transportation and conventional transportation are the occurrence of unhealthy competition<sup>11</sup> between online transportation and conventional transportation. Definition of unfair business competition based on Law No. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition in Article 1 point 6 Unfair business competition is competition between business actors in carrying out production activities and / or marketing of goods or services carried out by dishonest or unlawful or hinder business competition. Some of the existing conventional transportation business actors include Gojek<sup>12</sup>, Uber<sup>13</sup> and Grab.

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<sup>10</sup> Conflict needs to be interpreted as a way or means to change society. Openness and seriousness in breaking down the root causes of conflict and good and open communication between interested parties is a way of handling conflicts that need to be put forward. Sukardi, *'Penanganan Konflik Sosial Dengan Pendekatan Keadilan Restoratif'*, 2016 Nomor 1, Jurnal Hukum dan Pembangunan 46, p. 76-77

<sup>11</sup> Unhealthy competition is competition between unequal business actors, there is dishonesty from business actors who compete with other business actors. Mustafa Kamal Rokan, *Hukum Persaingan Usaha: Teori dan Praktiknya di Indonesia*, 2012, Jakarta: Rajawali Pers, p. 17

<sup>12</sup> Gojek is a motorcycle taxi service provider that is integrated with our smartphone. We can call a motorcycle taxi with just the touch of a finger, can also make payments via the application, even Gojek can be used to send goods or food delivery. Gojek has colored transportation in various major cities in Indonesia. Competition between the two conventional transportation service providers (ojek pangkalan) and virtual (Ojek Online) has recently been widely reported in the mass media. The existence of Gojek services will bring new colors among various transportation services. But on the other hand, the existence of Gojek has made the motorcycle taxi base public space threatened, because Gojek is more organized and technology-based through smartphone management, so passengers without the need to negotiate tariffs and without meeting at an ojek base.

<sup>13</sup> Uber is a four-wheeled passenger transportation service company using a mobile application Online Taxi application in

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<sup>8</sup> Setyaningsih Sri Utami, April 2010, *Pengaruh Teknologi Informasi Dalam Perkembangan Bisnis*, Jurnal Akuntansi dan Sistem Teknologi Informasi, Vol 8 No. 1, p. 63

<sup>9</sup> Primary MG. Wijaya BM, Kunaifi A, *'Analisis Deskriptif Konsumen dan Mitra Pengemudi pada Jasa Transportasi Online Ride Sharing'*, 2017, Jurnal Sains dan Seni ITS, Volume 6 Nomor 2, p. 164

Changes in the social dynamics of the community related to the presence of online-based transportation are caused by technological factors<sup>14</sup>. The technology utilized in online transportation has changed the dynamics of society to shift to online transportation. The shifting lifestyle of the community has also become one of the supporting factors for the development of a digital-based lifestyle. On the other hand this might lead to pros and cons. But if we can look closely, many parties will be more benefited by the presence of online transportation or digital-based service products and business opportunities increasingly wide open.

Online transportation is accused of causing a decrease in the income of conventional transportation drivers. Though technological progress is something we cannot avoid in this life. Obstacles arise in realizing the synergy between conventional and online transportation, namely the slow regulation of online transportation which

causes the existence of online transportation to shake conventional transportation. With the development of technology, it is undeniable that competition in the business world and services is also increasingly demanded to increasingly innovate. However, the Government must continue to play a role through its policy of issuing regulations that protect the interests of all parties, not issuing policies that hinder the development of online transportation.

In essence, business competition law is intended to regulate competition and monopoly for profitable purposes. If business competition law is given a broad meaning, not only includes competition regulation, but also the issue of whether or not the monopoly can be used as a public policy suggestion to regulate which power can be managed by the private sector.<sup>15</sup> Business competition law is a law that regulates the interaction of a company or business actor in the market, while a company's behavior when interacting is based on economic motives.<sup>16</sup>

Prohibited activities as referred to in Law No. 5 of 1999 which occurred or resulted in monopolistic practices and unfair business competition, including monopoly, monopsony, market control, conspiracy, dominant position. Article 1 Number 4 of Law No. 5 of 1999 states that dominant position is a condition where a business actor does not have a competitor in the relevant market in relation to the market share that is controlled,

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order to make shuttle bookings for passengers from a user-defined place and delivered according to the destination of the mobile Online Taxi application. Uber Online Taxi Application in its use is controlled by GPS as a map tool or location map. The Uber company was founded by duet Travis Kalanick and Garrett Camp. Uber services were born in San Francisco in 2010. Uber currently operates in many countries, including Indonesia.

<sup>14</sup> Literally the technology comes from the Greek language, which is *tecnologia* which means systematic discussion of all arts and crafts. The term has the root word "techne" in Ancient Greek meaning art (art) or craft (craft). From the literal meaning, technology in Ancient Greek can be defined as the art of producing the means of production and using them. The definition then developed into the use of science in accordance with human needs. Technology can also be interpreted as "knowledge about how to make things (know-how of making things) or how to do something (know-how of doing things) in the sense of the ability to do something with high value, both the value of benefits and the selling value. Quoted from Nanang Martono, 2012, *Sosiologi Perubahan Sosial : Perspektif Klasik, Modern, Postmodern, dan Postkolonial*, Jakarta: PT Raja Grafindo, p. 276

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<sup>15</sup> Arie Siswanto, 2002, *Hukum Persaingan Usaha*, Jakarta: Ghalia Indonesia, p. 23

<sup>16</sup> Andi Fahmi Lubis, 2009, *Hukum Persaingan Usaha: Antara Teks dan Konteks*, Jakarta: Creative Media, p. 21

or a business actor has the highest position among its competitors in the relevant market in relation to financial capacity, ability to access supply or sales, and the ability to adjust supply or demand for certain goods or services. UU no. 5 of 1999 in Article 25 states that business actors are prohibited from using a dominant position either directly to establish trading conditions with the aim of preventing and / or preventing consumers from obtaining competing goods and / or services, both in terms of price and in terms of quality, limit the market and technology development; or inhibit other business actors that have the potential to become competitors to enter the relevant market.

The Business Competition Super-visory Commission (KPPU)<sup>17</sup> stated that it was very appreciative of the presence of online transportation. KPPU also emphasized that online transportation that runs cannot be said to cause unfair business competition when competing with conventional transportation. It is normal when the community shifts to online transportation with the facilities and services provided. Conventional transportation must be able to compete with the development of technology and society. Conventional transportation must be able to compete in terms of price and service so that conventional transportation is not eroded by

the presence of online-based transportation. Conventional transportation business actors must make changes in terms of their human resources and their equipment prepared for the digital era.

As the number of producers and consumers increases, the competition in the market will become more perfect. The welfare of people who are taken away or in economic language called *Dead Weight Loss* which usually occurs in the monopoly market will be able to be overcome properly. Monopoly power can deter some consumer groups who want to consume company goods or services, but do not have sufficient purchasing power due to high pricing. The choice of conventional modes of transportation, such as taxis for example, whose industries are only controlled by a few companies in the market, certainly makes it difficult for consumers. Therefore, the presence of online transportation will certainly have an impact on the new price balance.<sup>18</sup>

Considering the perfect market aspirations cannot be separated from the role of the government in realizing a perfect market. In this case the law must be able to participate so that market idealism can be achieved and not harm economic actors / business actors and the realization of the ecosystem balance of doing business.<sup>19</sup> Based

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<sup>17</sup> Position of KPPU in the constitution is a state of auxiliary organ (state auxiliary organ) being banned by the President. KPPU is not a judicial institution but KPPU has the authority to carry out quasi judicial covering the authority possessed by the judicial institution namely investigation, prosecution, examining, adjudicating until deciding business competition cases at the first level. Quoted from Alum Silombon, Oktober 2012, *'Kedudukan Hukum Komisi Pengawas Persaingan Usaha Melaksanakan Wewenang Penegakan Hukum Persaingan Usaha'*, Mimbar Hukum, Volume 24 Number 3, p.540

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<sup>18</sup> Lola Amelia, 2015, *'Respon Kebijakan Terhadap Transportasi Berbasis Aplikasi di Jakarta : Kajian Singkat dan Rekomendasi'*, The Indonesian Institute Center For Public Research, p. 32

<sup>19</sup> Al Araf Assadallah Marzuki, Juni 2017, *'Urgensi Putusan Sela Berkaitan Dengan Harta Kekayaan Pelaku Usaha Dalam Hukum Acara Persaingan Usaha di Indonesia'*, Jurnal Panorama Hukum, Volume 2 Nomor 1, p. 88

on responsive legal theory<sup>20</sup> which states that the law should be able to respond to changes in society and can accommodate what is in the public interest in a legal product, namely the Law.

The root of the progressive law in understanding the symptoms of online transportation arrangements is an orientation that is quite appropriate considering the existing regulations. Arrangements are no longer able to answer business trading in general, especially online business. Online business opens the possibility of every person or legal subject to participate in online transportation services without having to form a legal entity either PT, Foundation or cooperative to accommodate online businesses. Personally it is possible and sufficient to join an online application company that provides applications and brokers to consumers of online transportation services.<sup>21</sup>

The Indonesian government, especially the Ministry of Transportation, cannot be said to be responsive to the development of online transportation. This began when the Ministry of Transportation asked the Ministry of Communication and Information to close applications or block online transportation applications. Government policy should not

hamper the development that occurs in society. The government should form responsive regulations for both online and conventional modes of transportation, given that both application-based and conventional public transport also have the same rights to run their businesses and make a living.

Responsive law is a law that reflects a sense of justice and fulfills people's expectations. In the process of making responsive legal products, social groups or individuals in society are given a large role and full participation. The results of this process are legal products that are responsive to all interests, both the public and the Government. The rules issued by the Ministry of Transportation include:

1. Prohibition to operate for online-based transportation companies through the Minister of Transportation's Decree Number UM.302 / 1/21 / Phb / 2015 because they are considered contrary to Law Number 22 of 2009 concerning Road Traffic and Transportation, however then this Ministerial Decree was revoked because the President's statement that online application-based transportation was still needed by the community.
2. Ministerial Regulation Number 32 of 2016 concerning Managing Transportation of People with Public Motorized Vehicles Not in Routes.
3. Minister of Transportation Regulation No. 26 of 2017 which has been canceled by the Supreme Court because it is considered several points contrary to Law No. 22 of 2009 concerning Traffic and

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<sup>20</sup> According to Philippe Nonet and Philip Selznick, good law should provide something more than just legal procedures. The law must be competent and fair. The law must be able to recognize the wishes of the public and have a commitment to achieving substantive justice. Philippe Nonet dan Philip Selznick, 2007, *Hukum Responsif*, Bandung: Nusamedia, p.6

<sup>21</sup> Agus Pribadiono, Agustus 2016, '*Transportasi Online VS Transportasi Tradisional Non Online Persaingan Tidak Sehat Aspek Pemanfaatan Aplikasi Oleh Penyelenggara Online*', *Lex Jurnalica*, Volume 13 Nomor 2, p. 133

Transportation and Law No. 20 of 2008 concerning Micro and Small and Medium Enterprises, then issued again.

4. The Minister of Transportation Regulation No. 108 of 2017 concerning the Implementation of Transportation of Persons with Public Vehicles Not In Routes, which finally returned to the Supreme Court again.

The consideration of the Supreme Court revoked several articles in Minister of Transportation Regulation No. 26 of 2017 includes:

- a) Special rental services based on online applications are a logical consequence of the development of information technology in transportation modes that offer better services, guaranteed travel security at relatively cheap and timely prices;
- b) The fact shows the presence of special rental vehicles has succeeded in changing the form of the market from monopoly to competitive market competition, by utilizing excellence on the technology side to partner with micro and small entrepreneurs with the concept of sharing economy that is mutually beneficial by promoting the principle of family as in Article 33 paragraph (1) 1945 Constitution.
- c) The preparation of regulations in the field of transportation based on technology and information should be based on the principle of consensus deliberation that involves all stakeholders in the field of transportation services so that together can develop micro, small and medium-

sized businesses without leaving the principle of family;

- d) In the petition for objection to the material test rights, the Supreme Court considers that the object of application is contrary to the higher laws and regulations, which are contrary to Article 3, Article 4, Article 5 and Article 7 of Law No. 20 of 2008 concerning Micro, Small and Medium Enterprises. Because it does not grow and develop business in order to build a national economy based on equitable economic democracy and the principles of empowering micro, small and medium enterprises, it is contrary to Article 183 paragraph (2) of Law Number 22 of 2009 concerning Traffic and Highway, because the tariff determination is carried out. Based on the upper and lower limit rates, on the proposal of the Governor / Head of Agency determined by the Director General on behalf of the Minister and not based on agreement between service users and special leasing companies.

Innovation has a very important role in the country's economic development, because innovative companies create new values that did not exist before. In this way they create wealth for companies, countries and the world. The more innovative a company is the more productive and more efficient in using resources. The more productive the company in a country, the more efficient the country uses resources. Thus the innovation carried out by the company shows how important innovation is not only for the benefit of the

company but also for the country and also the influence of the innovation on society.<sup>22</sup>

The thing that must be done by the government to realize the synergy between conventional and online transportation, among others:

1. The government's attitude in establishing regulations that are firm and responsive. In the sense that the rule is not biased but can realize the rules needed by conventional and online transportation;
2. The government can accommodate the needs of two conventional and online modes of transportation. The government must be able to be a mediator and facilitator for both modes of transportation. So that an agreement that benefits both parties is realized;
3. The government encourages conventional transportation players to join and work together in building public transport with better services.

## CLOSING

### Conclusion

The synergy barriers between conventional transportation and online transportation are the slow regulation of the Government that regulates online-based transportation. The government must make appropriate regulations for these two modes of transportation without having to turn off online transportation. Because the presence of online transportation is due to technological advances that cannot be avoided. The

government's attitude in setting regulations that are firm and responsive. The government can accommodate the needs of two conventional and online modes of transportation. The government encourages conventional transportation players to join and work together in building public transport with better services.

## Recommendations

1. It would be better if the government immediately issued a responsive regulation for two conventional and online modes of transportation to create the right regulatory formulation for both.
2. The government is conducting training for conventional transportation actors to be able to take advantage of technological developments to develop conventional transportation businesses in order to compete with online transportation.

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<sup>22</sup> Trisna Febrina, Juni 2014 'Studi Penerapan Inovasi Teknologi Informasi Dengan Metode Technology Watch and Competitive Intelligent', Volume 5 Nomor 1, Comtech, p. 356



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